NIGERIA

TRADE SUMMARY

U.S. goods exports in 2014 were $5.9 billion, down 7.3 percent from the previous year. Nigeria is currently the 43rd largest export market for U.S. goods Corresponding U.S. imports from Nigeria were $3.8 billion, down 67.2 percent. The U.S. goods trade surplus with Nigeria was $2.1 billion in 2014, shifting from a trade deficit of $5.3 billion in 2013.

The stock of U.S. foreign direct investment (FDI) in Nigeria was $8.1 billion in 2013 (latest data available), down from $8.4 billion in 2012. U.S. FDI in Nigeria is led by the mining sector.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Meat and Meat Products

Nigeria continues to ban imports from any country of all bovine animal meat and edible offal (fresh, chilled, frozen) as well as pork, sheep, goats and edible offal of horses, asses and mules. While the prevention of bovine spongiform encephalopathy (BSE) is the stated rationale, these bans apply to all countries, even those without BSE cases. Nigeria also bans the import of live and dead poultry (with the exception of day-old chicks) and poultry meat, including fresh, frozen, and cooked poultry meat due to avian influenza (AI). These bans are not consistent with international standards.

Import Certificates

Nigeria requires that all food, drug, cosmetic, and pesticide imports be accompanied by certificates from manufacturers and certain national authorities, regardless of origin. These certificates attest that the product is safe for human consumption (*e.g.*, does not contain aflatoxin). However, Nigeria's limited capacity to review certificates, carry out inspections, and conduct testing has resulted in delays in the clearance of food imports.

IMPORT POLICIES

Tariffs

Nigeria's 2008-2012 Common External Tariff (CET) Book remains in effect and was designed to harmonize the country's tariff regime with the proposed Economic Community of West African States (ECOWAS) CET, which was formally adopted by ECOWAS in 2013 and entered into force on January 1, 2015. Like the ECOWAS CET, Nigeria's 2008-2012 CET Book has five tariff bands: zero duty on capital goods, machinery, and essential drugs not produced locally; 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; 20 percent duty on finished goods; and 35 percent duty on goods in certain sectors that the Nigerian government seeks to protect. ECOWAS member governments are permitted to assess duties on imports higher than the maximum allowed in the tariff bands (but not to exceed a total effective duty of 70 percent) for up to three percent of the 5,899 tariff lines included in the ECOWAS CET.

Nigeria maintains a number of supplemental levies and duties on selected imports that significantly raise effective tariff rates. For example, Nigeria maintains a combined effective duty (tariff plus levy) of 50 percent or more on 156 tariff lines. These include 15 tariff lines whose combined duty exceeds the 70 percent limit set by ECOWAS, covering tobacco (135 percent for cigars and cigarettes; 85 percent for tobacco and other tobacco products), rice (120 percent), wheat flour (100 percent), and sugar (80 percent).

In October 2013, the Nigerian government announced an Automotive Industry Development Plan (NAIDP), which seeks to expand domestic vehicle manufacturing. The NAIDP imposes a 35 percent levy on automobile imports, over and above the 35 percent tariff already levied, for an effective total ad valorem duty of 70 percent. The NAIDP allows companies that manufacture or assemble cars in Nigeria to continue to import two vehicles at the old rate (35 percent tariff with no additional levy) for every one vehicle produced in Nigeria. No U.S. auto manufacturers currently produce cars in Nigeria.

Customs Procedures

Nigerian port practices continue to present major obstacles to trade. Importers report erratic application of customs regulations, lengthy clearance procedures, high berthing and unloading costs, and corruption. These factors can sometimes contribute to product deterioration and result in significant losses for importers of perishable goods. Disputes between Nigerian government agencies over the interpretation of regulations often cause delays, and frequent changes in customs guidelines slow the movement of goods through Nigerian ports. Nigeria uses a destination inspection policy for imports. Under this policy, all imports are inspected on arrival into Nigeria. Such actions delay the clearing process and increase costs.

Companies report that high tariffs, nontransparent valuation procedures, frequent policy changes, and unclear interpretations by the Nigerian Customs Service (NCS) continue to make importation difficult and expensive, and often create bottlenecks for commercial activities. For example, while the 35 percent duty under the NAIDP is reportedly meant to apply to used auto imports, reports differ as to how it is being applied.

Despite these challenges, companies have reported reductions in processing times as a result of the following ongoing improvements in the NCS clearance process as well as in port infrastructure:

- In December 2014, the NCS introduced a Pre-Arrival Assessment Report system, which traders report to be faster than the predecessor Risk Assessment Report system. Since 2010, and through the Nigeria Expanded Trade and Transportation project launched in October 2012, USAID has supported strengthening the capacity of the NCS risk management unit and training officers in preparation for takeover of direct inspection from these service providers.
- Launched in 2013 by the Ministry of Finance, Nigeria's Single Window Portal is a trade facilitation project of 12 Nigerian government agencies involved in the customs clearance process. The Single Window Portal allows traders to access customs regulations online, submit customs documents electronically, track transaction status online, and submit electronic payments. In addition, in 2012 the NCS launched the Nigeria Trade Hub as a customs informational portal for traders. The NCS Nigeria Import, Export and Transit Process Manual has reportedly also contributed to increased efficiency.
- The Authorized Economic Operator (AEO) scheme is intended to fast track cargo clearance for trusted traders and give incentives for traders to increase compliance with clearance procedures. USAID is working with the NCS on the AEO scheme.
- The Nigerian Port Authority, through public-private partnership arrangements, has undertaken rehabilitation of port terminals in Lagos and Port Harcourt, deepened water channels, upgraded common user facilities, and removed wrecks from water channels.

These and other improvements have resulted in increased cargo throughput in 2014. Nevertheless, traders report that infrastructural limitations in and around Nigeria's ports continue to contribute to long queues by both trucks and ships as well as delays (*see more on this under Other Barriers section*).

Nontariff Measures

Nigeria uses nontariff measures in an effort to achieve "self-sufficiency" in certain commodities. In line with an Agricultural Transformation Action Plan that seeks to increase domestic food production and employment, the government plans to require flour millers to substitute up to 40 percent of wheat flour with domestically-produced cassava flour by 2015.

During the first quarter of 2014, the Nigerian government introduced a frozen fish import quota regime that was expected to significantly reduce total fish imports. The government also banned imports of catfish and tilapia species as part of the quota system. The ban does not appear to cover the Pacific Hake (*Merluccius productus*) species, which U.S. companies have recently begun to export to Nigeria.

The government continues to ban the import of nearly 50 different product categories, citing the need to protect local industries or promote health and safety. The list of prohibited imports currently includes bird eggs; cocoa butter, powder, and cakes; pork; beef; live birds; frozen poultry; refined vegetable oil and fats; cassava; bottled water; spaghetti and other noodles; fruit juice in retail packs; nonalcoholic beverages (excluding energy drinks); bagged cement; all medicaments falling under HST headings 3003 and 3004; waste pharmaceuticals; soaps and detergents; mosquito repellant coils; sanitary plastic wares; toothpicks; rethreaded or used tires; corrugated paper; paper board; telephone recharge cards and vouchers; textile fabrics and yarn; certain printed fabrics, lace and embroidered fabrics; carpets and rugs; made-up garments and certain other textile articles; footwear; bags and leather and plastic suitcases; glass beverage bottles; used compressors; used motor vehicles more than ten years old; most types of furniture; ball point pens; pistols and air pistols; airmail photographic printing paper; beads; blank invoices; cowries; used or inferior tea; cartridge reloading implements; indecent or obscene articles; manilas; matches; materials likely to offend religious views or breach the peace; meat and vegetables determined unfit for human consumption; materials or products bearing inscriptions of the Koran; used clothing; silver or metal alloy coins not legal tender in Nigeria; nuclear industrial waste; toxic waste; certain spirits and alcohols; and weapons and ammunition that contain or are designed to contain noxious liquid or gas.

GOVERNMENT PROCUREMENT

The Nigerian government has made modest progress on its pledge to conduct open and competitive bidding processes for government procurement. Public procurement reforms seek to ensure that the procurement process for public projects adheres to international standards for competitive bidding. The Bureau of Public Procurement (BPP) acts as a clearinghouse for government contracts and monitors the implementation of projects to ensure compliance with contract terms and budgetary restrictions. All procurement above ₦100 million (approximately $560,000) remains subject to review by the BPP. The 36 state governments also agreed to enact the Public Procurement Act in their respective states, and 22 states have passed procurement legislation. In the energy sector, USAID energy consultants have been advising the Nigeria Bulk Electricity Trader and the Transmission Company of Nigeria (TCN) regarding the incorporation of international best practices in energy procurement. USAID is currently serving as the lead advisor for transmission procurement through TCN.

Foreign companies incorporated in Nigeria receive national treatment in government procurement, government tenders are published in local newspapers, and a "tenders" journal is sold at local newspaper outlets. U.S. companies have won government contracts in several sectors. Unfortunately, some of these companies have had trouble getting paid, often as a result of delays in the national budgetary process.

The National Petroleum Investment and Management Services (NAPIMS) agency must approve all procurement in the oil and gas sector with a value above $500,000. Slow approval processes can significantly increase the time and resources required for a given project.

Nigeria is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Nigeria was not listed in the 2014 Special 301 Report. However, the Nigerian government's lack of institutional capacity to address intellectual property rights (IPR) issues continues to present challenges to enforcement. Relevant Nigerian government institutions lack sufficient resources to enforce IPR, and legislation intended to implement Nigeria's WTO obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights has yet to be passed by the National Assembly. Piracy remains a problem despite Nigeria's active participation in the World Intellectual Property Organization and other international fora and the growing interest among Nigerians to protect their IPR. Nigerian artists strongly support IPR as a means of protecting and incentivizing the immensely popular film and music sector in Nigeria. Counterfeit automotive parts, pharmaceuticals, business and entertainment software, music and video recordings, and other consumer goods are sold openly. Piracy of software, books and optical disc products continues to be an ongoing concern. Also, judicial procedures are slow and reportedly compromised by corruption.

However, the government has taken steps to improve enforcement. Efforts to combat the sale of counterfeit pharmaceuticals, for example, have yielded some results. The Nigerian Copyright Commission (NCC) continues to carry out raids and seizures of pirated works, but the effectiveness of such enforcement efforts is constrained both by NCC resources and by the number and persistence of producers of pirated works.

INVESTMENT BARRIERS

Nigeria continues to decline in global competitiveness rankings, falling from 147 to 170 (out of 189 countries) in the World Bank's 2015 Ease of Doing Business ranking and from 120 to 127 (out of 144 countries) in the World Economic Forum's 2014-15 Global Competitiveness Index. Reasons for the decline included weak governmental institutions, corruption, inadequate infrastructure, security challenges, inadequate health care, poor education systems, barriers to starting businesses, and inadequate access to finance for small- and medium-sized enterprises (SMEs) and consumers. These barriers restrict potential U.S. investment in Nigeria. Investors must also contend with complex tax procedures, confusing land ownership laws, arbitrary application of regulations, and crime. International monitoring groups routinely rank Nigeria among the most corrupt countries in the world.

Companies report that contracts are often violated and that Nigeria's system for settling commercial disputes is weak and often biased. Frequent power outages, as well as poor road, port, rail, and aviation transportation infrastructure pose a major challenge to doing business in Nigeria. Such infrastructure deficits hinder Nigeria's ability to compete in regional and international markets. Recent restrictions on foreign exchange purchases put in place in November 2014 have hampered U.S. companies' ability to import finished or semi-finished goods used in their Nigeria operations.

A Petroleum Industry Bill (PIB), currently under review by the National Assembly, would further and significantly change the way Nigeria's oil and gas sector is structured and regulated. Years of delays in the passage of the PIB have created uncertainty in the investment community and delayed significant investment in infrastructure needed to sustain and grow Nigeria's oil and gas production.

OTHER BARRIERS

Port congestion and inefficiency

Due to lack of space at Lagos ports, ships reportedly queue up for days, and in some cases weeks and months, before being able to berth and discharge their contents. Tanker vessels conveying petrol, aviation fuel, and other liquids sometimes wait for days or weeks before they can discharge their contents to a number of tank farms located in the Apapa port area. In addition, due to delays caused by congestion and the poor condition of the port access roads, operations at Nigerian ports are among the most expensive in the world.

Local content

The development of local content has become a top priority of the Nigerian government, which views the quantifiable, mandated local content requirements pioneered in the oil and gas sector as a model for implementation in other sectors.

Oil and Gas Sector

In 2010, Nigeria enacted a trade restrictive law in the oil and gas sector called the Oil and Gas Content Development Act (the Act). The Act puts in place legally mandated local content requirements for projects in Nigeria's oil and gas sector. The Act gives preferential treatment to Nigerian goods and services and requires that positions in the oil and gas sector are first filled by Nigerian nationals if possible. The Act's coverage is broad; it includes any activity or transaction carried out in, or connected with, the oil and gas industry, a sector that accounts for roughly 16 percent of Nigeria's GDP. The Act's local sourcing mandate, which applies to an extensive list of goods and services supplied to the oil and gas industry, has been a particular concern of U.S. oil and gas service suppliers.

Companies must also create and seek approval for a "Nigerian Content Plan" to demonstrate how they will increase local content in oil and gas operations. Companies that do not follow a Nigerian Content Plan can face fines of 4 percent of the contract value or cancelation of the contract. Also, international companies must put 10 percent of their annual profit in a Nigerian bank.

Restrictions also apply with respect to the movement of personnel. Nigeria imposes quotas on foreign personnel. Such quotas remain especially strict in the oil and gas sector and may apply to both production and services companies. Oil and gas companies must hire Nigerian workers, unless they can demonstrate that particular positions require expertise not found in the local workforce. Positions in finance and human resources are almost exclusively reserved for Nigerians.

Certain geosciences and management positions may be filled by foreign workers with the approval of NAPIMS. Each oil company must negotiate its foreign worker allotment with NAPIMS. Significant delays in this process, and in the approval of visas for foreign personnel, present serious challenges to the oil and gas industry in acquiring the necessary personnel for their operations. According to stakeholders, the Act is adversely affecting a diverse range of companies, including operators, contractors, subcontractors, and service providers.

Information and Communications Technology (ICT) Sector

On December 3, 2013, the National Information Technology Development Agency (NITDA), under the auspices of the Federal Ministry of Communication Technology, issued the Guidelines for Nigerian Content Development in the ICT sector. These guidelines include requirements that multinational companies operating in Nigeria source all hardware products locally; all government agencies source and procure all computer hardware only from NITDA-approved original equipment manufacturers; and ICT companies host all data locally, use only locally manufactured SIM cards for telephone services and data, and use indigenous companies to build cell towers and base stations.

Corruption

Corruption remains a substantial trade barrier in Nigeria. U.S. firms are sometimes disadvantaged in competing with some companies which are willing to engage in corruption for contracts and other business opportunities. U.S. firms may also experience difficulties in day-to-day operations as some Nigerian officials demand inappropriate "facilitative" payments. The government has not implemented anti-corruption laws effectively, and officials often engage in corrupt practices with impunity.